

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

M.S.,

Minor and Appellant.

B217249

(Los Angeles County
Super. Ct. No. TJ17518)

APPEAL from an order of the Superior Court of the County of Los Angeles,
Charles Scarlett, Judge. Affirmed.

Marta I. Stanton, under appointment by the Court of Appeal, for Minor and
Appellant.

No appearance by the Respondent.

INTRODUCTION

The juvenile court sustained a petition pursuant to Welfare and Institutions Code section 602 alleging that minor and appellant, M. S. (minor), committed battery on an officer and resisted, obstructed, and delayed an officer. Appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) requesting this court to review independently the entire appellate record. We have done so and, based on that review, we affirm the adjudication and disposition orders from which minor appeals.

FACTUAL BACKGROUND

On December 5, 2007, Los Angeles County Sheriff's Department Deputy Refugio Casillas was assigned to the Transit Services Bureau. He was part of a "truancy sweep," assisting security staff of the Imperial Rosa Parks Metro Bus/Train Station as they contacted juveniles and issued truancy citations. At approximately 9:45 a.m. that morning, Deputy Casillas saw minor, who was being detained with a group of other juveniles. Minor appeared to be around 15 or 16 years old and seemed "angry, agitated, [and] upset." She was "yelling out" foul language toward the security assistants and the deputies who were detaining the group. Minor "looked angry almost to the point of . . . [being] belligerent, hostile." Her hands were "flailing" and moving around in an aggressive manner.

Deputy Casillas approached minor to within an arm's length distance and told her "to relax [and] calm down [because] it would go quickly . . . , [it was] only a ticket, [it was] not a big deal." Minor stepped toward the deputy and tried to confront him about her detention. Minor was within two or three feet of Deputy Casillas as she continued to swear and gesture with her hands in an angry manner. The deputy again tried to calm minor, but she raised her hand in a "threatening" and "assaultive" manner, as if she was

preparing to swing or strike. In response, Deputy Casillas placed his right hand on minor's shoulder, who reacted by swinging her hand upward toward the deputy's shoulder. Based on minor's reaction, Deputy Casillas grabbed minor's hands and brought them behind her back in an attempt to secure her. Minor did not cooperate, and instead resisted and attempted to break free. Because minor had cream or lotion on her hands and arms, Deputy Casillas had difficulty grabbing her hands securely. He lost control of her, she broke free of his grasp, and struck him in the "chest/arm area." Deputy Casillas was then able to handcuff minor, and he determined that she was not injured. He read minor her Miranda¹ rights and she agreed to speak with him. Minor told Deputy Casillas that she had been taking medication to control her anger, but had not taken it recently. Deputy Casillas and a supervisor located minor's mother, transported minor to mother's job site, and released minor to her mother.

PROCEDURAL BACKGROUND

The Los Angeles County District Attorney filed a petition pursuant to Welfare and Institutions Code section 602 alleging that minor committed battery upon an officer in violation of Penal Code section 243, subdivision (b)—a misdemeanor—and resisted, obstructed, and delayed an officer in violation of Penal Code section 148, subdivision (a)(1)—a misdemeanor. At the adjudication and disposition hearing, the juvenile court found both alleged counts to be true and sustained the petition. The juvenile court placed minor on probation for six months and ordered a maximum term of confinement of one year.

¹ *Miranda v. Arizona* (1966) 384 U.S. 436.

DISCUSSION

We appointed counsel to represent minor on this appeal. After examining the record, appointed counsel filed an opening brief raising no issues, but requesting this court to review the record independently in accordance with *Wende, supra*, 25 Cal.3d 436. We gave notice to minor that her appointed counsel had not found any arguable issues, and that minor had 30 days within which to submit by brief or letter any grounds of appeal, contentions, or arguments she wanted this court to consider. We received no response from minor.

We have examined the entire record and determined there are no arguable issues on appeal.² We are therefore satisfied that minor's appellate counsel has fully complied with her responsibilities. (*Wende, supra*, 25 Cal.3d at p. 441.)

² It appears that the juvenile court's order setting a maximum term of confinement was erroneous. (*In re Ali A.* (2006) 139 Cal.App.4th 569, 573-574 [holding that maximum period of confinement in dispositional order was of no legal effect because the ward was not removed from his parents' custody].) But any such error is harmless because the term of confinement is without legal effect and cannot prejudice minor. (*Id.* at p. 574.) Thus, the erroneous order setting a maximum term of confinement provides no basis upon which to reverse or remand this case.

DISPOSITION

The adjudication and disposition orders of the juvenile court are affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

MOSK, J.

We concur:

ARMSTRONG, Acting P. J.

WEISMAN, J.*

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.